

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

SUMMARY

Housing and Environmental Standards Work Group July 16, 2013, 1:30 PM Senate Room A, General Assembly Building

I. Welcome and Call to Order

Senator John Watkins, Chair, called the meeting to order at 1:30 PM.

Work Group members in attendance: Senator John Watkins, *Chair*; Senator George Barker; Delegate David Bulova; Delegate Daniel Marshall; Delegate Barry Knight; Mark Flynn, *Governor Appointee/Virginia Municipal League*; Brian Buniva; Ron Clements, *Virginia Building & Code Officials Association*; Michael Congleton, *Fairfax County Planning Commission*; Tyler Craddock, *Manufactured & Modular Housing Association*; James R. Dawson, *Virginia Fire Prevention Association*; Chip Dicks, *Virginia Association of Realtors*; Sean P. Farrell, *Virginia Building & Code Officials Association*; John Hastings, *Virginia Housing Development Authority*; Erik Johnston, *Virginia Association of Counties*; John H. Jordan, *Manufactured Housing Communities of Virginia*; Ralston King, *Whitehead Consulting*; Art Lipscomb, *Virginia Professional Fire Fighters*; R. Schaefer Oglesby, *Virginia Association of Realtors*; Shaun Pharr, *Apartment and Office Building Association*; Ed Rhodes, *Virginia Fire Chiefs Association*; Emory Rodgers, *Department of Housing & Community Development*; Neal Rogers, *Virginia Housing Development Authority*; Michael L. Toalson, *Home Builders Association of Virginia*; Cal Whitehead, *Whitehead Consulting*; Jerry M. Wright, *Central Virginia Chapter-Community Association Institute*.

Staff: Elizabeth Palen, *Executive Director of VHC*

II. General Survey

- **Mark Flynn, Virginia Municipal League:** We sent a survey out to localities; and of the 14 good responses we received, there are roughly 200-240 residential buildings over 75 feet tall for mixed uses without generators. With these building that have generators, they operate elevators, emergency lights, and some other private systems. That is the general scope of the issue.

- **Sean Farrel:** The column “what the generators run,” what does the “five” next to some of the jurisdictions mean?
 - **Flynn:** I had some technical issues with Excel and meant that to be a footnote meaning “other systems.”
 - **Flynn:** Henrico notes one tall building for the purpose of this discussion. It has a generator and runs the elevators, emergency lighting, and other systems.
- **Emory Rodgers:** I believe Innsbrook has applied for some high buildings as well.
 - **Flynn:** This is a survey of what is present today, so that would not be in the survey.
- **Watkins:** What does the Building Code require now for residential buildings 75 feet and over?
 - **Emory Rodgers:** There is a standby power system requirement, which includes automatic fire detection equipment, power lighting elevators, and ventilation, and an emergency power system requirement, which includes emergency lights, automatic fire detection systems, emergency voice communication systems, and alarm systems.
- **Watkins:** Has there been any movement towards changing the code?
 - **Emory Rodgers:** There have been no code changes for this cycle.
- **Watkins:** I think as more people move to high rises, especially those of older ages, they will have additional needs.
- **Bernie Caton, City of Alexandria:** The health department is looking specifically at nursing homes.
- **Flynn:** From our survey, I extrapolate there are some 200-250 who do not have generators.
- **Caton:** New buildings and parts of the building under renovation do require generators; parts not under renovation do not.
- **Flynn:** Often the localities have certain priorities, and they are persuasive in their recommendations like this. Usually for Building Code issues, letters are sent to the Board of Housing and Community Development; and they adequately address the issues. It may be too late for this session, but I suggest sending a letter.
- **Caton:** We would be happy to do that, and expedite the process.

III. **Uniform Statewide Building Code; County/Town Enforcement (HC 1574, R. Minchew, 2013) (SB 1239, M Herring, 2013)**

- **Emory Rodgers, Department of Housing and Community Development:** Localities elect to enforce Virginia Maintenance Code, and we may want to revise to make this clear

whether a county enforcing this code can enforce it in a town with a population of less than 3,500. We will be happy to work with parties to craft the legislation to create clarity.

- **Mike Toalson:** Could you take a minute to describe the Maintenance Code as opposed to the Construction Code?
 - **Rodgers:** The Virginia Construction and Rehabilitation Code were promulgated for new construction and for alternations to existing buildings. The Maintenance Code was promulgated to preserve the maintenance of safety systems and structure, but it was also made optional to each community. More rural jurisdictions tend to opt out.
 - **Sean Farrell:** These structures are to be maintained under the code to which they were started, and to not require retrofits.
- **John R. Roberts, Attorney, Loudoun County:** With respect to the optional provisions, our county adopted some of them to address localized problems. The town of Leesburg approached us and asked us to enforce the occupancy provisions. We then entered a memorandum of understanding (MOU). They later asked us to enter a MOU to enforce maintenance provisions, and since this legislation has been put forward we have been working to get a similar agreement.
 - I say this type of agreement is preferable. This tends to be a complaint driven process, referred to us through the town. We also have more resources to enforce those previsions. The town also determines when to bring legal action.
 - We think this works wonderfully, and we can add the maintenance provisions to the agreement we already have. I do not think the mandate is necessary.
- **Watkins:** Do you agree with Mr. Roger's clarification changes?
 - **Roberts:** We understood this bill was driven by the issue with Leesburg. It may be helpful for smaller towns, but we think our agreement approach with Leesburg works well.
- **Watkins:** Leesburg has a population of 4,500 people. Do you enforce the building code, or does the county?
 - **Roberts:** New construction is all done by the county. We prefer to do it through an agreement, and not being forced to do it.
- **Ron Clements, Virginia Building and Code Officials, Chesterfield:** This states that a town with a population of 3,500 people or fewer may choose whether to adopt this legislation rather than the county, but a larger town has no option. But it also says that a municipality can enter into an agreement, which means a larger city has the option to choose an agreement.
- **Flynn:** It seems to me that we would be better served with one set of basic rules about which locality is responsible for enforcement. Clarity in the legislation would be helpful.

- **Jeanette Irby, Attorney, Town of Leesburg:** We are pleased with our previous agreement with Loudoun County, and asked the county to enter into another agreement regarding the provisions they adopted in the maintenance code. We do not feel comfortable prescribing those duties to our zoning department. Certainly MOU's can work, but we ask that you look into this legislation carefully, and adopt the legislation so that towns in similar situations do not have to rely on a written agreement.
- **Toalson:** In the agreement, would the town have a provision stating that they will reimburse the county the expenses?
 - **Irby:** I do not think that is appropriate, as the town residents pay the same tax, in addition to town taxes, as county residents.
- **Ron Clements:** I think the proposed legislation still needs some work. I think we should address the maintenance issue, as well as the issue of rental inspections.
- **Flynn:** Do you know number of towns that have their own building department?
 - **Irby:** Sixteen of 36 did not have a building department. Eight did not respond.
- **Farrell:** Virginia Construction Code requires a code official to act in unsafe conditions, whether or not the Maintenance Code has been adopted.

IV. **Response/Timeline; State Fire Marshal Inspection Fees**

- **Emory Rodgers:** During 2012, there was discussion of Fire Marshal fees. On June 3, the Fire Marshal submitted additional fee proposals. On August 22 and October 11, there will be a stakeholder meeting. On September 23, there is a public hearing. Our board for the Statewide Fire Prevention Code will also meet. December 16, the Board of Housing will make their decisions on proposed fees. It is a regulatory process we have used for some time.
 - The Fire Marshal's Office moved to the Department of Housing and Community Development in the 1970's, and then limited approval was given to give fees for inspecting hospitals and explosives. In 2004, the State Fire Marshal was given the authority by the General Assembly to implement fee programs that are approved by DHCD in our regulatory process.
- **Watkins:** I understand that the Fire Marshal had not requested changes for fees in a timely fashion, and that was part of the problem.
 - **Rodgers:** Yes, that is correct.
- **Watkins:** I am not sure we have to take any specific action. I think it would be helpful for an update when you have made some recommendations.
 - **Rodgers:** We will be able to update you what was approved and what was supported by stakeholders by October 28.

- **Watkins:** The Senate Joint Resolution passed in 2012 that requested a study be conducted by the Virginia Institute of Marine Sciences concerning recurrent flooding. I suggest you take a look at the study.
 - I have been contacted from some folks in Tidewater, VA. I do not want to debate the issue, but flooding is becoming more frequent. We need to look into this issue and come up with some best practice standards.

V. Public Comment

- **Watkins** asked for public comment.

VI. Adjourn

- Upon hearing no request for public comment, **Senator Watkins** adjourned the meeting at 2:34 PM.